IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF MISSISSIPPI NORTHERN DIVISION

THE STATE OF MISSISSIPPI EX REL.)
JIM HOOD, ATTORNEY GENERAL)
FOR THE STATE OF MISSISSIPPI,)
)
Plaintiff-Counterclaim Defendant,)
,) No. 3:08-CV-780-CWR-LRA
v.)
)
ENTERGY MISSISSIPPI, INC., ENTERGY)
CORPORATION, ENTERGY SERVICES,) ORAL ARGUMENT REQUESTED
INC., AND ENTERGY POWER, INC.,)
, ,	,)
Defendants-Counterclaim Plaintiffs.	,)

MOTION FOR SUMMARY JUDGMENT BASED ON STATE OR FEDERAL PREEMPTION

Pursuant to Rule 56(a) of the Federal Rules of Civil Procedure, Defendants Entergy Corporation, Entergy Mississippi, Inc., Entergy Services, Inc., and Entergy Power, Inc. (collectively, "Defendants") respectively move that summary judgment be entered in favor of Defendants dismissing Plaintiff's Amended Complaint. Defendants respectfully request oral argument.

This motion is based on the ground that any challenge to an electric utility's practices alleged to have impacted rates charged to retail customers must, as between the Mississippi Public Service Commission ("MPSC") and a court, proceed originally before the MPSC and can be reviewed in court only on appeal from the MPSC's order. A separate ground for this motion is federal preemption, which here would provide that, as between the MPSC and the Federal Energy Regulatory Commission ("FERC"), Plaintiff's suit must proceed if at all before FERC, because the purchasing and operational decisions Plaintiff challenges are governed by a federal tariff

approved by the Federal Energy Regulatory Commission ("FERC"), have multi-state implications, and are subject to FERC's jurisdiction.

Defendants will subsequently file a separate motion for summary judgment on the ground that Plaintiff is unable to establish one or more elements of each of his causes of action, all of which are asserted under Mississippi state law. Pursuant to this Court's Order (Doc. 228), Defendants are entitled to a total of seventy-five pages for the opening and rebuttal memoranda of law in support of both motions for summary judgment.

In support of this motion, Defendants attach the following exhibits:

Exhibit A	Compendium of Certain Exhibits
Exhibit B	Entergy System Agreement, Attachment 1 to Declaration of Michelle Thiry
Exhibit C	Deposition Transcript of Dr. David DeRamus (February 23, 2018)
Exhibit D	Certified Copy of Mississippi Senate Bill 2295
Exhibit E	Deposition Transcript of Mr. Neil Copeland (February 21, 2018)
Exhibit F	Declaration and Expert Report of John Hurstell (certain appendices omitted)
Exhibit G	Declaration and Expert Report of Donald Morrow (exhibits omitted)
Exhibit H	Declaration and Certain of John Hurstell's Work Papers in support of Figure JPH-19-20 in his Expert Report
Exhibit I	Rebuttal Expert Report of Dr. David DeRamus
Exhibit J	Declaration and Expert Report of Frank Gallaher
Exhibit K	Declaration and Expert Report of Robert M. Hawkins
Exhibit L	Declaration and Expert Report of Bob Marsh

Exhibit M	Deposition Transcript of Plaintiff's Rule 30(b)(6) Witness Crystal Secoy (April 19, 2018)
Exhibit N	Jenkins v. Entergy Corp., Findings Of Fact And Conclusions Of Law On Plaintiffs' Motion To Certify (Tex. Dist. Ct. Chambers Cnty. Apr. 30, 2012)
Exhibit O	[intentionally not used]
Exhibit P	[intentionally not used]
Exhibit Q	Opening Expert Report of Neil Copeland
Exhibit R	Opening Expert Report of Dr. David DeRamus
Exhibit S	Deposition Transcript of Robert M. Hawkins (May 11, 2018)
Exhibit T	Opening Expert Report of Charles S. Griffey
Exhibit U	Rebuttal Expert Report of Charles S. Griffey
Exhibit V	Declaration of Steven C. McNeal
Exhibit W	Declaration of Rory L. Roberts
Exhibit X	Plaintiff's Answers to Interrogatories (April 10, 2017)
Exhibit Y	Plaintiff's First Supplemental Answers to Interrogatories (September 19, 2017)
Exhibit Z	Mississippi Public Service Commission Docket 1992- UN-59

In further support of this motion, Defendants will file a memorandum brief, the arguments and authorities in which are incorporated in this motion by reference.

RESPECTFULLY SUBMITTED, this 4th day of June, 2018.

ENTERGY MISSISSIPPI, INC., ENTERGY CORPORATION, ENTERGY SERVICES, INC. AND ENTERGY

POWER, INC., Defendants

By /s/ Roy D. Campbell, III

Roy D. Campbell, III (MSB 5562) J. William Manuel (MSB 9891) Alicia N. Netterville (MSB 105055)

BRADLEY ARANT BOULT
CUMMINGS LLP
One Jackson Place
188 East Capitol Street, Suite 400
P.O. Box 1789
Jackson, MS 39215-1789
Telephone: (601) 948-8000
Facsimile: (601) 948-3000
rcampbell@bradley.com
wmanuel@bradley.com
anetterville@bradley.com

Charles E. Ross (MSB 5683)
James L. Robertson (MSB 5612)
Rebecca Hawkins (MSB 8786)
WISE CARTER CHILD & CARAWAY, P.A.
Post Office Box 651
Jackson, MS 39205-0651
Telephone: (601) 968-5534
Facsimile: (601) 944-7738
jlr@wisecarter.com
cer@wisecarter.com

rwh@wisecarter.com

OF COUNSEL:

Tianna H. Raby (MSB 100256) Christopher R. Shaw (MSB 100393) ENTERGY MISSISSIPPI, INC. 308 E. Pearl Street, Suite 700 (39201) Mail Unit M-ELEC-4A P.O. Box 1640 Jackson, MS 39215-1640 Telephone: (601) 969-2656 Facsimile: (601) 969-2696

traby@entergy.com cshaw4@entergy.com

John A. Braymer, *Pro Hac Vice* Associate General Counsel ENTERGY SERVICES, INC. 639 Loyola Avenue, Suite 2600 New Orleans, LA 70133 jbrayme@entergy.com

CERTIFICATE OF SERVICE

I do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

This 4th day of June, 2018.

/s/ Roy D. Campbell, III
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